

AMENDED IN SENATE MAY 21, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 10, 2014

**SENATE BILL**

**No. 1438**

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**Introduced by Senator Pavley  
(Coauthor: Senator Anderson)**

February 21, 2014

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An act to amend Section 1714.22 of the Civil Code, and to amend Sections 1797.197 and 11601 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1438, as amended, Pavley. Controlled substances: opioid antagonists.

(1) Existing law authorizes a licensed health care provider who is permitted by law to prescribe an opioid antagonist and is acting with reasonable care to prescribe and subsequently dispense or distribute an opioid antagonist for the treatment of an opioid overdose to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Under existing law, licensed health care providers are authorized to issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist the person at risk. Existing law also authorizes licensed health care providers to issue standing orders for the administration of an opioid antagonist by a family member, friend, or other person in a position to assist a person experiencing or suspected of experiencing an opioid overdose.

Existing law provides that a licensed health care provider who acts with reasonable care and issues a prescription for, or an order for the administration of, an opioid antagonist to a person experiencing or suspected of experiencing an opioid overdose is not subject to professional review, liable in a civil action, or subject to criminal prosecution for issuing the prescription or order. Under existing law, a person who is not otherwise licensed to administer an opioid antagonist, but who meets other specified conditions, is not subject to professional review, liable in a civil action, or subject to criminal prosecution for administering an opioid antagonist.

This bill would clarify that peace officers are included among the persons authorized to receive and distribute opioid antagonists as described above.

(2) Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, establishes the Emergency Medical Services Authority (EMSA), which is responsible for the coordination and integration of all state agencies concerning emergency medical services. Under existing law, EMSA is required to establish training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the characteristics and method of assessment and treatment of anaphylactic reactions and the use of epinephrine.

This bill would require EMSA to ~~establish~~ *develop and adopt* training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the use and administration of naloxone hydrochloride and other opioid antagonists. ~~Notwithstanding that requirement, the bill would also authorize a local EMS agency to establish training and standards, and promulgate regulations, in lieu of those developed and promulgated by EMSA, for the purpose of considering local need, for all prehospital emergency care personnel under the jurisdiction of that local EMS agency regarding the use and administration of naloxone hydrochloride and other opioid antagonists. The bill would authorize EMSA to adopt existing training and standards for prehospital emergency care personnel regarding the statewide use and administration of naloxone hydrochloride or another opioid antagonist to satisfy the requirements of the bill's provisions. The bill would also authorize, at the discretion of the medical director of the local EMS agency, pertinent training completed by prehospital emergency care personnel to be used to satisfy part of the training requirements established by EMSA pursuant to the bill's provisions.~~

The bill would specify that both of those types of trainings satisfy the requirements described above allowing for immunity from criminal and civil liability for administering an opioid antagonist, and require certain best practices to apply to those trainings, standards, and regulations. antagonist.

(3) Existing law, the Uniform Controlled Substances Act, requires the Attorney General to encourage research on the misuse and abuse of controlled substances, and, in connection with that research, and in furtherance of the enforcement of the act, authorizes the Attorney General to undertake specific acts, including developing new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of the act.

This bill would additionally permit the Attorney General, in connection with that research, and in furtherance of the enforcement of the act, to authorize hospitals and trauma centers to share information with local law enforcement agencies and local emergency medical services agencies about controlled substances. The bill would limit the data that may be provided by hospitals and trauma centers to the number of overdoses and the substances suspected as the primary cause of the overdoses. The bill would require that the information shared be shared in a manner that ensures complete patient confidentiality.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1714.22 of the Civil Code is amended  
2 to read:  
3 1714.22. (a) For purposes of this section, the following  
4 definitions shall apply:  
5 (1) "Opioid antagonist" means naloxone hydrochloride that is  
6 approved by the federal Food and Drug Administration for the  
7 treatment of an opioid overdose.  
8 (2) "Opioid overdose prevention and treatment training  
9 program" means any program operated by a local health  
10 jurisdiction or that is registered by a local health jurisdiction to  
11 train individuals to prevent, recognize, and respond to an opiate  
12 overdose, and that provides, at a minimum, training in all of the  
13 following:  
14 (A) The causes of an opiate overdose.

1 (B) Mouth to mouth resuscitation.

2 (C) How to contact appropriate emergency medical services.

3 (D) How to administer an opioid antagonist.

4 (b) A licensed health care provider who is authorized by law to  
5 prescribe an opioid antagonist may, if acting with reasonable care,  
6 prescribe and subsequently dispense or distribute an opioid  
7 antagonist to a person at risk of an opioid-related overdose or to  
8 a family member, friend, peace officer, or other person in a position  
9 to assist a person at risk of an opioid-related overdose.

10 (c) (1) A licensed health care provider who is authorized by  
11 law to prescribe an opioid antagonist may issue standing orders  
12 for the distribution of an opioid antagonist to a person at risk of  
13 an opioid-related overdose or to a family member, friend, peace  
14 officer, or other person in a position to assist a person at risk of an  
15 opioid-related overdose.

16 (2) A licensed health care provider who is authorized by law to  
17 prescribe an opioid antagonist may issue standing orders for the  
18 administration of an opioid antagonist to a person at risk of an  
19 opioid-related overdose by a family member, friend, peace officer,  
20 or other person in a position to assist a person experiencing or  
21 reasonably suspected of experiencing an opioid overdose.

22 (d) (1) A person who is prescribed or possesses an opioid  
23 antagonist pursuant to a standing order shall receive the training  
24 provided by an opioid overdose prevention and treatment training  
25 program.

26 (2) A person who is prescribed an opioid antagonist directly  
27 from a licensed prescriber shall not be required to receive training  
28 from an opioid prevention and treatment training program.

29 (e) A licensed health care provider who acts with reasonable  
30 care shall not be subject to professional review, be liable in a civil  
31 action, or be subject to criminal prosecution for issuing a  
32 prescription or order pursuant to subdivision (b) or (c).

33 (f) Notwithstanding any other law, a person who possesses or  
34 distributes an opioid antagonist pursuant to a prescription or  
35 standing order shall not be subject to professional review, be liable  
36 in a civil action, or be subject to criminal prosecution for this  
37 possession or distribution. Notwithstanding any other law, a person  
38 not otherwise licensed to administer an opioid antagonist, but  
39 trained as required under paragraph (1) of subdivision (d), who  
40 acts with reasonable care in administering an opioid antagonist,

1 in good faith and not for compensation, to a person who is  
2 experiencing or is suspected of experiencing an overdose shall not  
3 be subject to professional review, be liable in a civil action, or be  
4 subject to criminal prosecution for this administration.

5 SEC. 2. Section 1797.197 of the Health and Safety Code is  
6 amended to read:

7 1797.197. (a) The authority shall establish training and  
8 standards for all prehospital emergency care personnel, as defined  
9 in paragraph (2) of subdivision (a) of Section 1797.189, regarding  
10 the characteristics and method of assessment and treatment of  
11 anaphylactic reactions and the use of epinephrine. The authority  
12 shall promulgate regulations regarding these matters for use by all  
13 prehospital emergency care personnel.

14 (b) (1) The authority shall ~~establish~~ *develop and, after approval*  
15 *by the commission pursuant to Section 1799.50, adopt* training  
16 and standards for all prehospital emergency care personnel, as  
17 defined in paragraph (2) of subdivision (a) of Section 1797.189,  
18 regarding the use and administration of naloxone hydrochloride  
19 and other opioid antagonists. The authority shall promulgate  
20 regulations regarding these matters for use by all prehospital  
21 emergency care personnel. The authority may ~~designate~~ *adopt*  
22 existing training and standards for *prehospital emergency care*  
23 *personnel regarding the statewide* use and administration of  
24 naloxone hydrochloride or another opioid antagonist to satisfy the  
25 requirements of this section.

26 ~~(2) Notwithstanding paragraph (1), a local EMS agency may~~  
27 ~~develop its own training and standards, and may promulgate~~  
28 ~~regulations, in lieu of the training and standards and regulations~~  
29 ~~developed by the authority pursuant to paragraph (1), for the~~  
30 ~~purpose of considering local need, regarding the use and~~  
31 ~~administration of naloxone hydrochloride and other opioid~~  
32 ~~antagonists by prehospital emergency care personnel under the~~  
33 ~~jurisdiction of that local EMS agency.~~

34 ~~(3) The training, standards, and regulations described in~~  
35 ~~paragraphs (1) and (2) shall be in line with best practices in the~~  
36 ~~Substance Abuse and Mental Health Services Administration's~~  
37 ~~Opioid Overdose Prevention Toolkit.~~

38 ~~(2) Pertinent training completed by prehospital emergency care~~  
39 ~~personnel, at the discretion of the medical director of the local~~  
40 ~~EMS agency, may be used to satisfy part of the training~~

1 *requirements established pursuant to paragraph (1) regarding the*  
2 *use and administration of naloxone hydrochloride and other opioid*  
3 *antagonists by prehospital emergency care personnel.*

4 ~~(4)~~

5 (3) The training described in paragraphs (1) and (2) shall satisfy  
6 the requirements of paragraph (1) of subdivision (d) of Section  
7 1714.22 of the Civil Code.

8 SEC. 3. Section 11601 of the Health and Safety Code is  
9 amended to read:

10 11601. The Attorney General shall encourage research on  
11 misuse and abuse of controlled substances. In connection with the  
12 research, and in furtherance of the enforcement of this division,  
13 he or she may do all of the following:

14 (a) Develop new or improved approaches, techniques, systems,  
15 equipment, and devices to strengthen the enforcement of this  
16 division.

17 (b) Enter into contracts with public agencies, institutions of  
18 higher education, and private organizations or individuals for the  
19 purpose of conducting demonstrations or special projects that bear  
20 directly on misuse and abuse of controlled substances.

21 (c) (1) Authorize hospitals and trauma centers to share  
22 information with local law enforcement agencies and local  
23 emergency medical services agencies about controlled substance  
24 overdose trends.

25 (2) The information provided by hospitals and trauma centers  
26 pursuant to this subdivision shall include only the number of  
27 overdoses and the substances suspected as the primary cause of  
28 the overdoses. Any information shared pursuant to this subdivision  
29 shall be shared in a manner that ensures complete patient  
30 confidentiality.